

AMENDED IN ASSEMBLY NOVEMBER 2, 2009

AMENDED IN ASSEMBLY OCTOBER 26, 2009

AMENDED IN ASSEMBLY SEPTEMBER 4, 2009

SENATE BILL

No. 68

Introduced by ~~Senator Steinberg~~ *Committee on Budget and Fiscal Review*

(Principal coauthors: ~~Senators Florez, Padilla, Pavley, and Simitian~~)

January 20, 2009

An act to amend Sections 6103.1 and 6103.4 of the Government Code, to amend Sections 29702, 29725, 29727, 29733, 29735, 29735.1, 29738, 29741, 29751, 29752, 29754, 29756.5, 29763, 29771, and 29780 of, to add Sections 29703.5, 29722.5, 29722.7, 29728.5, 29759, 29773, 29773.5, and 29778.5 to, to add Division 22.3 (commencing with Section 32300) to, to repeal Section 29762 of, and to repeal and add Sections 29736, 29739, 29753, 29761, 29761.5, and 29764 of, the Public Resources Code, and to amend Sections 1052, 1055, 1055.2, 1120, 1525, 1535, 1538, 1551, 1825, 1831, 1845, 2525, 2526, 2550, 2763.5, and 5106 of, to amend and repeal Section 10631.5 of, to add Sections 1051.1, 1055.5, 1240.5, 1846, and 1847 to, to add Chapter 3.5 (commencing with Section 1110) to Part 1 of Division 2 of, to add Part 2.55 (commencing with Section 10608) and Part 2.11 (commencing with Section 10920) to Division 6 of, to add Division 35 (commencing with Section 85000) to, to repeal Division 26.4 (commencing with Section 79400) of, to repeal and add Section 12924 of, and to repeal and add Part 2.8 (commencing with Section 10800) of Division 6 of, the Water Code, relating to water resources, and making an appropriation therefor. *An act to amend Sections 33690 and 33690.5 of the Health and Safety Code, relating to community redevelopment, and declaring the urgency thereof, to take effect immediately.*

LEGISLATIVE COUNSEL'S DIGEST

SB 68, as amended, ~~Steinberg~~ *Committee on Budget and Fiscal Review. Water resources. Community redevelopment: Supplemental Education Revenue Augmentation Fund.*

(1) *The Community Redevelopment Law authorizes the establishment of redevelopment agencies in communities to address the effects of blight, as defined, in blighted areas in those communities known as project areas. Section 16 of Article XVI of the California Constitution authorizes a redevelopment agency to receive funding through tax increments attributable to increases in assessed property tax valuation of property in a project area due to redevelopment. Not less than 20% of tax increments generated from a project area are required to be used by a redevelopment agency to increase and improve the community's supply of low- and moderate-income housing. Redevelopment agencies are required in the 2009–10 fiscal year to remit to the county auditor an amount of revenue for deposit in the Supplemental Educational Revenue Augmentation Fund in each county for allocation to school entities. Existing law authorizes the agency, in order to make the full allocation, to borrow the amount required to be allocated to the Low and Moderate Income Housing Fund, pursuant to existing law, unless executed contracts exist that would be impaired if the agency reduced the amount allocated to the Low and Moderate Income Housing Fund.*

This bill would additionally authorize an agency, in order to make the required allocation to the county Supplemental Educational Revenue Augmentation Fund, to borrow any moneys in the Low and Moderate Income Housing Fund under the same condition.

(2) *Under existing law, the amount of revenue a redevelopment agency is required to remit to the county auditor during the 2009–10 and 2010–11 fiscal years is determined in accordance with specified calculations made by the Director of Finance and is based, in part, on a specified report of the Controller.*

This bill would make an adjustment to the calculation made by the Director of Finance with respect to a redevelopment agency that, prior to August 1, 2009, deleted territory from any project area and reported to the State Board of Equalization in accordance with existing law and that deletion is not reflected in certain described reports.

(3) *This bill would declare that it is to take effect immediately as an urgency statute.*

~~(1) Existing law requires various state agencies to administer programs relating to water supply, water quality, and flood management in the Sacramento-San Joaquin Delta. The Johnston-Baker-Andal-Boatwright Delta Protection Act of 1992 (Delta Protection Act) creates the Delta Protection Commission and requires the commission to prepare and adopt a comprehensive long-term resource management plan for specified lands within the Sacramento-San Joaquin Delta. Existing law requires the Secretary of the Resources Agency to convene a committee to develop and submit to the Governor and the Legislature, on or before December 31, 2008, recommendations for implementing a specified strategic plan relating to the sustainable management of the Delta.~~

~~This bill would revise and recast the provisions of the Delta Protection Act to, among other things, reduce the number of commission members to 15 members, as specified. The bill would require the commission to appoint at least one advisory committee consisting of representatives from specified entities to provide input regarding the diverse interests within the Delta. The bill would require the commission to adopt, not later than July 1, 2011, an economic sustainability plan containing specified elements and would require the commission to review and, as determined to be necessary, amend the plan every 5 years.~~

~~The bill would require the commission to prepare and submit to the Legislature, by July 1, 2010, recommendations on the potential expansion of or change to the primary zone or the Delta.~~

~~The bill would establish the Delta Investment Fund in the State Treasury. Moneys in the fund, upon appropriation by the Legislature, would be required to be expended by the commission to implement the regional economic sustainability plan.~~

~~The bill would establish in the Natural Resources Agency the Sacramento-San Joaquin Delta Conservancy. The conservancy would be required to act as a primary state agency to implement ecosystem restoration in the Delta and to support efforts that advance environmental protection and the economic well-being of Delta residents. The bill would specify the composition of the conservancy and grant certain authority to the conservancy, including the authority to acquire real property interests from willing sellers or transferors. The conservancy would be required to use conservation easements to accomplish ecosystem restoration whenever feasible. The conservancy would be required to prepare and adopt a strategic plan to achieve the goals of the conservancy. The strategic plan would be required to be consistent~~

with the Delta Plan and certain other plans. The bill would establish the Sacramento-San Joaquin Delta Conservancy Fund in the State Treasury. Moneys in the fund would be available, upon appropriation, to finance projects, including ecosystem restoration and economic sustainability projects.

(2) Existing law requires the Secretary of the Natural Resources Agency to convene a committee to develop and submit to the Governor and the Legislature, on or before December 31, 2008, recommendations for implementing a specified strategic plan relating to the sustainable management of the Delta.

This bill would enact the Sacramento-San Joaquin Delta Reform Act of 2009. The bill would establish the Delta Stewardship Council as an independent agency of the state. The council would be required to consist of 7 members appointed in a specified manner. The bill would specify the powers of the council. The bill would require the council, on or before January 1, 2012, to develop, adopt, and commence implementation of a comprehensive management plan for the Delta, meeting specified requirements. The bill would require a state or local public agency that proposes to undertake certain proposed actions that will occur within the boundaries of the Delta or the Suisun Marsh to prepare, and submit to the council, a specified written certification of consistency with the Delta Plan prior to taking those actions. By imposing these requirements on a local public agency, the bill would impose a state-mandated local program. The bill would establish an appeal process by which a person may claim that a proposed action is inconsistent with the Delta Plan, as prescribed.

The bill would impose requirements on the Department of Water Resources in connection with the preparation of a specified Bay Delta Conservation Plan (BDCP). The BDCP would only be permitted to be incorporated in the Delta Plan if certain requirements are met.

The bill would establish the Delta Independent Science Board, whose members would be selected by the council. The bill would require the Delta Independent Science Board to develop a scientific program relating to the management of the Delta.

The bill would require the State Water Resources Control Board to establish an effective system of Delta watershed diversion data collection and public reporting by December 31, 2010. The bill would require the board to develop new flow criteria for the Delta ecosystem, as specified. The board would be required to submit those determinations to the council. The bill would require the board, in consultation with the

council, to appoint a special master for the Delta, referred to as the Delta Watermaster. The bill would grant specified authority to the Delta Watermaster.

(3) The California Bay-Delta Authority Act establishes the California Bay-Delta Authority in the Resources Agency. The act requires the authority and the implementing agencies to carry out programs, projects, and activities necessary to implement the Bay-Delta Program, defined to mean those projects, programs, commitments, and other actions that address the goals and objectives of the CALFED Bay-Delta Programmatic Record of Decision, dated August 28, 2000, or as it may be amended.

This bill would repeal that act. The bill would impose requirements on the council in connection with the repeal of that act.

(4) Existing law requires the Department of Water Resources to convene an independent technical panel to provide information to the department and the Legislature on new demand management measures, technologies, and approaches. “Demand management measures” means those water conservation measures, programs, and incentives that prevent the waste of water and promote the reasonable and efficient use and reuse of available supplies.

This bill would require the state to achieve a 20% reduction in urban per capita water use in California by December 31, 2020. The state would be required to make incremental progress towards this goal by reducing per capita water use by at least 10% on or before December 31, 2015. The bill would require each urban retail water supplier to develop urban water use targets and an interim urban water use target, in accordance with specified requirements. The bill would require agricultural water suppliers to implement efficient water management practices. The bill would require the department, in consultation with other state agencies, to develop a single standardized water use reporting form. The bill, with certain exceptions, would condition eligibility for certain water management grants or loans to urban water suppliers, beginning July 1, 2016, and agricultural water suppliers, beginning July 1, 2013, on the implementation of water conservation requirements established by the bill. The bill would repeal on July 1, 2016, an existing requirement that conditions eligibility for certain water management grants or loans to an urban water supplier on the implementation of certain water demand management measures.

~~(5) Existing law, until January 1, 1993, and thereafter only as specified, requires certain agricultural water suppliers to prepare and adopt water management plans:~~

~~This bill would substantially revise existing law relating to agricultural water management planning to require agricultural water suppliers to prepare and adopt agricultural water management plans with specified components on or before December 31, 2012, and update those plans on or before December 31, 2015, and on or before December 31 every 5 years thereafter. An agricultural water supplier that becomes an agricultural water supplier after December 31, 2012, would be required to prepare and adopt an agricultural water management plan within one year after becoming an agricultural water supplier. The agricultural water supplier would be required to notify each city or county within which the supplier provides water supplies with regard to the preparation or review of the plan. The bill would require the agricultural water supplier to submit copies of the plan to the department and other specified entities. The bill would provide that an agricultural water supplier is ineligible to receive specified state funds if the supplier does not prepare, adopt, and submit the plan in accordance with the requirements established by the bill.~~

~~(6) Existing law generally prohibits the state, or a county, city, district, or other political subdivision, or any public officer or body acting in its official capacity on behalf of any of those entities, from being required to pay any fee for the performance of an official service. Existing law exempts from this provision any fee or charge for official services required pursuant to specified provisions of law relating to water use or water quality.~~

~~This bill would expand the exemption to other provisions relating to water use, including provisions that require the payment of fees to the State Water Resources Control Board for official services relating to statements of water diversion and use.~~

~~(7) The California Constitution requires the reasonable and beneficial use of water. Under the public trust doctrine, the board, among other state agencies, is required to take the public trust into account in the planning and allocation of water resources and to protect the public trust whenever feasible. The board and the California regional water quality control boards (regional boards) are required to set forth water quality objectives in state and regional water quality control plans. Existing law establishes the Water Rights Fund, which consists of various fees and penalties. The moneys in the Water Rights Fund are~~

available, upon appropriation by the Legislature, for the administration of the board's water rights program.

~~This bill would authorize the board to issue, on its own motion or upon the petition of an interested party, an interim relief order in appropriate circumstances to implement or enforce these and related provisions of law. A person or entity that violates any interim relief order issued by the board would be liable to the board for a civil penalty in an amount not to exceed \$5,000 for each day in which a violation occurs. These funds would be deposited in the Water Rights Fund.~~

~~(8) Existing law authorizes the State Water Resources Control Board to investigate all streams, stream systems, lakes, or other bodies of water, take testimony relating to the rights to water or the use of water, and ascertain whether water filed upon or attempted to be appropriated is appropriated under the laws of the state. Existing law requires the board to take appropriate actions to prevent waste or the unreasonable use of water. Under existing law, the board makes determinations with regard to the availability of recycled water.~~

~~This bill would authorize the board, in conducting an investigation or proceeding for these purposes, to order any person or entity that diverts water or uses water to submit, under penalty of perjury, any technical or monitoring report related to the diversion or use of water by that person or entity. By expanding the definition of the crime of perjury, the bill would impose a state-mandated local program. The bill would authorize the board, in connection with the investigation or proceeding, to inspect the facilities of any person or entity to determine compliance with specified water use requirements.~~

~~(9) Existing law authorizes the State Water Resources Control Board, upon the submission of a petition signed by a claimant to water of any stream system requesting a determination of rights among the claimants to that water, to enter an order granting the petition. After granting the petition, the board is required to investigate the stream system to gather information necessary to make a determination of the water rights of that stream system.~~

~~This bill would authorize the board to initiate a determination of rights under its own motion if after a hearing it finds that the public interest and necessity will be served by a determination of rights.~~

~~(10) Existing law declares that the diversion or use of water other than as authorized by specified provisions of law is a trespass. Existing law authorizes the administrative imposition of civil liability by the board for a trespass in an amount not to exceed \$500 for each day in~~

which the trespass occurs. Moneys generated by the imposition of civil liability under these provisions are deposited in the Water Rights Fund.

This bill would provide that a person or entity committing a trespass may be liable in an amount not to exceed the sum of \$1,000 for each day in which the trespass occurs and \$1,000 for each acre-foot of water diverted or used other than as authorized by those specified provisions of law.

(11) Existing law, with certain exceptions, requires each person who, after December 31, 1965, diverts water to file with the board a statement of diversion and use.

This bill would establish a rebuttable presumption, in any proceeding before the board in which it is alleged that an appropriative right has ceased or is subject to prescribed action, that no use required to be included in a statement of diversion and use occurred unless that use is included in a statement that is submitted to the board within a specified time period.

The bill would require a person who files a statement of diversion and use, and certain petitions involving a change in a water right, to pay an annual fee, for deposit in the Water Rights Fund. The bill would include as recoverable costs, for which the board may be reimbursed from the fund upon appropriation therefor, costs incurred in connection with carrying out requirements relating to the statements of diversion and use and the performance of duties under the public trust doctrine and provisions that require the reasonable use of water.

(12) Existing law authorizes the State Water Resources Control Board to issue a cease and desist order against a person who is violating, or threatening to violate, certain requirements, including requirements set forth in a decision or order relating to the unauthorized use of water. Any person who violates a cease and desist order may be liable in an amount not to exceed \$1,000 for each day in which the violation occurs. Revenue generated from these penalties is deposited in the Water Rights Fund.

This bill would authorize the board to issue a cease and desist order in response to a violation of certain requirements relating to the unauthorized diversion or use of water or of a reporting or monitoring requirement established under a decision, order, or regulation adopted by the board pursuant to various provisions of law, including the public trust doctrine. The bill would increase the civil penalties that apply to a person who violates a cease and desist order by subjecting a violator to a civil penalty in an amount not to exceed the sum of \$2,500 for each

day in which the violation occurs and \$2,500 for each acre-foot of water diverted or used in violation of the cease and desist order.

The bill would impose civil liability, in an amount not to exceed \$500 for each day in which a violation occurs, for a failure to comply with various reporting or monitoring requirements, including requirements imposed pursuant to the public trust doctrine. The bill would authorize the board to impose additional civil liability, in an amount not to exceed \$500 for each day in which a violation occurs, for the violation of a permit, license, certificate, or registration, or an order or regulation involving the unreasonable use of water. Funds derived from the imposition of these civil penalties would be deposited in the Water Rights Fund.

The bill would require the board to adjust for inflation, by January 1 of each year, beginning in 2011, the amounts of civil and administrative liabilities or penalties imposed by the board in water right actions, as specified.

The bill would require that, in a proceeding before the board in which it is alleged that an appropriative water right has ceased, or is subject to prescribed action, there would be a rebuttable presumption that no use occurred on or after January 1, 2009, unless that diversion or use was reported to the board within six months after it is required to be filed with the board.

(13) Existing law authorizes a local agency whose service area includes a groundwater basin that is not subject to groundwater management to adopt and implement a groundwater management plan pursuant to certain provisions of law. Existing law requires a groundwater management plan to include certain components to qualify as a plan for the purposes of those provisions, including a provision that establishes funding requirements for the construction of certain groundwater projects.

This bill would establish a groundwater monitoring program pursuant to which specified entities, in accordance with prescribed procedures, may propose to be designated by the Department of Water Resources as groundwater monitoring entities, as defined, for the purposes of monitoring and reporting with regard to groundwater elevations in all or part of a basin or subbasin, as defined. The bill would require the department to work cooperatively with each monitoring entity to determine the manner in which groundwater elevation information should be reported to the department. The bill would authorize the department to make recommendations for improving an existing

monitoring program, require additional monitoring wells under certain circumstances, and require the department, under prescribed circumstances, to perform groundwater monitoring functions for those portions of a basin or a subbasin for which no monitoring entity has agreed to perform those functions under this program.

~~(14) Existing law requires the department to conduct an investigation of the state's groundwater basins and to report its findings to the Governor and the Legislature not later than January 1, 1980.~~

This bill would repeal that provision. The department would be required to conduct an investigation of the state's groundwater basins and to report its findings to the Governor and the Legislature not later than January 1, 2012, and every 5 years thereafter.

~~(15) Existing law, the Safe Drinking Water, Water Quality and Supply, Flood Control, River and Coastal Protection Bond Act of 2006, an initiative bond act approved by the voters at the November 7, 2006, statewide general election, authorizes the issuance of bonds in the amount of \$5,388,000,000, of which \$1,000,000,000 is made available to the Department of Water Resources, upon appropriation therefor, to meet the long term water needs of the state. Eligible projects are required to implement integrated regional water management plans and include fisheries restoration and protection projects. A portion of these funds may be expended directly or granted by the department to address multiregional needs or issues of statewide significance.~~

~~This bill would appropriate \$28,000,000 of these funds to the department for the department to expend, as specified, on the Two-Gates Fish Protection Demonstration Program managed by the United States Bureau of Reclamation.~~

~~(16) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.~~

~~This bill would provide that with regard to certain mandates no reimbursement is required by this act for a specified reason.~~

~~With regard to any other mandates, this bill would provide that, if the Commission on State Mandates determines that the bill contains costs so mandated by the state, reimbursement for those costs shall be made pursuant to the statutory provisions noted above.~~

Vote: ~~majority~~^{2/3}. Appropriation: ~~yes~~^{no}. Fiscal committee: ~~yes~~. State-mandated local program: ~~yes~~^{no}.

The people of the State of California do enact as follows:

1 **SECTION 1.** *Section 33690 of the Health and Safety Code, as*
2 *added by Section 6 of Chapter 21 of the Fourth Extraordinary*
3 *Session of the Statutes of 2009, is amended to read:*

4 33690. (a) (1) (A) For the 2009–10 fiscal year, a
5 redevelopment agency shall remit, as determined by the Director
6 of Finance, prior to May 10, 2010, an amount equal to the amount
7 determined for that agency pursuant to paragraph (2) to the county
8 auditor for deposit in the county Supplemental Educational
9 Revenue Augmentation Fund that is established in the county
10 treasury. Notwithstanding any other law, any funds deposited in
11 the Supplemental Educational Revenue Augmentation Fund shall
12 not be distributed to a community college district.

13 (B) On or before May 25, 2010, the county auditor shall report
14 to the Department of Finance each amount transferred to the
15 Supplemental Educational Revenue Augmentation Fund for the
16 2009–10 fiscal year.

17 (2) On or before November 15, 2009, the Director of Finance
18 shall do all of the following:

19 (A) Determine the net tax increment apportioned to each agency
20 pursuant to Section 33670, excluding any amounts apportioned to
21 affected taxing entities pursuant to Section 33401, 33607.5, or
22 33676.

23 (B) Determine the net tax increment apportioned to all agencies
24 pursuant to Section 33670, excluding any amounts allocated to
25 affected taxing entities pursuant to Section 33401, 33607.5, or
26 33676.

27 (C) Determine a percentage factor by dividing one billion seven
28 hundred million dollars (\$1,700,000,000) by two and then by the
29 amount determined pursuant to subparagraph (B).

30 (D) Determine an amount for each agency by multiplying the
31 amount determined pursuant to subparagraph (A) by the percentage
32 factor determined pursuant to subparagraph (C).

33 (E) Determine the total amount of property tax revenue
34 apportioned to each agency pursuant to Section 33670, including
35 any amounts allocated to affected taxing entities pursuant to
36 Section 33401, 33607.5, or 33676.

37 (F) Determine the total amount of property tax revenue
38 apportioned to all agencies pursuant to Section 33670, including

1 any amounts allocated to affected taxing entities pursuant to
2 Section 33401, 33607.5, or 33676.

3 (G) Determine a percentage factor by dividing one billion seven
4 hundred million dollars (\$1,700,000,000) by two and then by the
5 amount determined pursuant to subparagraph (F).

6 (H) Determine an amount for each agency by multiplying the
7 amount determined pursuant to subparagraph (E) by the percentage
8 factor determined pursuant to subparagraph (G).

9 (I) Add the amount determined pursuant to subparagraph (D)
10 to the amount determined pursuant to subparagraph (H).

11 (J) Notify each agency, each legislative body, and each county
12 auditor of each agency's amount. The county auditor shall deposit
13 these amounts in the county Supplemental Educational Revenue
14 Augmentation Fund pursuant to paragraph (1).

15 (3) The obligation of any agency to make the payments required
16 pursuant to this subdivision shall be subordinate to the lien of any
17 pledge of collateral securing, directly or indirectly, the payment
18 of the principal, or interest on any bonds of the agency including,
19 without limitation, bonds secured by a pledge of taxes allocated
20 to the agency pursuant to Section 33670. Agencies shall factor in
21 the fiscal obligations created by this subdivision when issuing
22 bonded indebtedness.

23 (b) To make the allocation required by this section, an agency
24 may use any funds that are legally available and not legally
25 obligated for other uses, including, but not limited to, reserve funds,
26 proceeds of land sales, proceeds of bonds or other indebtedness,
27 lease revenues, interest, and other earned income.

28 (c) (1) Notwithstanding any other law, to make the full
29 allocation required by this section, an agency may borrow *from*
30 *either* the amount required to be allocated to the Low and Moderate
31 Income Housing Fund, pursuant to Sections 33334.2, 33334.3,
32 and 33334.6, *or any moneys in that fund, or both*, unless, ~~in a given~~
33 ~~fiscal year~~, executed contracts exist that would be impaired if the
34 agency reduced the amount allocated to the Low and Moderate
35 Income Housing Fund *or the amount of moneys in the fund, or*
36 *both*, pursuant to the authority of this subdivision.

37 (2) As a condition of borrowing pursuant to this subdivision,
38 an agency shall make a finding that there are insufficient other
39 moneys to meet the requirements of subdivision (a). Funds
40 borrowed pursuant to this subdivision shall be repaid in full on or

1 before June 30, 2015. An agency that fails to repay funds borrowed
2 pursuant to this subdivision shall be required to allocate an
3 additional 5 percent of all taxes that are allocated to that agency
4 pursuant to Section 33670 for low- and moderate-income housing
5 for the remainder of the time the agency receives tax revenue
6 pursuant to Section 33670.

7 (d) The legislative body shall by March 1, 2010, report to the
8 county auditor as to how the agency intends to fund the allocation
9 required by this section, or that the legislative body intends to remit
10 the amount in lieu of the agency pursuant to Section 33692.

11 (e) The allocation obligations imposed by this section, including
12 amounts owed, if any, created under this section, are hereby
13 declared to be an indebtedness of the redevelopment project to
14 which they relate, payable from taxes allocated to the agency
15 pursuant to Section 33670, and shall constitute an indebtedness of
16 the agency with respect to the redevelopment project until paid in
17 full.

18 (f) It is the intent of the Legislature, in enacting this section,
19 that these allocations directly or indirectly assist in the financing
20 or refinancing, in whole or in part, of the community's
21 redevelopment project pursuant to Section 16 of Article XVI of
22 the California Constitution.

23 (g) In making the determination required by subdivision (a),
24 the Director of Finance shall use those amounts reported in "Table
25 7, Assessed Valuation, Tax Increment Distribution and Statement
26 of Indebtedness" for all agencies and for each agency in the
27 2006–07 edition of the Controller's Community Redevelopment
28 Agencies Annual Report made pursuant to Section 12463.3 of the
29 Government Code, *subject to any adjustments required by*
30 *subdivision (h).*

31 (h) *With respect to the use of amounts reported in the 2006–07*
32 *edition of the Controller's Community Redevelopment Agencies*
33 *Annual Report for purposes of subdivision (a), both of the following*
34 *shall apply:*

35 ~~(h)~~
36 (I) If revised reports were accepted by the Controller on or
37 before September 1, 2008, the Director of Finance shall use
38 appropriate data that has been certified by the Controller for the
39 purpose of making the determinations required by subdivision (a).

(2) *The director shall adjust the reported amounts of net and total tax increment revenue to exclude amounts apportioned to any redevelopment agency from any territory that has been deleted from any project area, as reported to the State Board of Equalization in accordance with Section 33375 prior to August 1, 2009, and that deletion is not reflected in the Controller's 2006–07 published report or in the revised reports described in paragraph (1).*

(i) Except as provided in Section 33331.5, nothing in this section shall be construed as extending the time limits on the ability of agencies to do both of the following:

(1) Establish loans, advances, or indebtedness.

(2) Exercise eminent domain powers.

(j) (1) Notwithstanding Sections 97.2 and 97.3 of Revenue and Taxation Code, the county auditor-controller shall distribute the funds that are remitted to the county Supplemental Educational Revenue Augmentation Fund by a redevelopment agency pursuant to this section only to a K-12 school district or county office of education that is located partially or entirely within any project area of that redevelopment agency in an amount proportional to the average daily attendance of each school district.

(2) The county auditor-controller shall notify each K-12 school district, and the State Department of Education, of the amount of Supplemental Educational Revenue Augmentation Fund moneys a district receives pursuant to this section from each redevelopment agency. The county auditor-controller shall also notify each K-12 school district receiving funds pursuant to paragraph (1) of the project area boundaries of each redevelopment agency from which the K-12 school district received funds.

(3) (A) The county superintendent of schools shall provide the average daily attendance reported for each school district as of the Second Principal Apportionment for the 2009–10 fiscal year to the county auditor-controller.

(B) The county auditor-controller shall, based on information provided by the county superintendent of schools pursuant to subparagraph (A), allocate the funding pursuant to this subdivision to those districts within the county.

(4) The county auditor-controller shall notify, on or before May 25, 2010, the Department of Finance of the amount of funding

1 apportioned to each district or county office of education pursuant
2 to this subdivision.

3 (5) School districts and county offices of education shall use
4 the funds received under this section to serve pupils living in the
5 redevelopment areas or in housing supported by redevelopment
6 agency funds. Redevelopment agencies shall provide whatever
7 information school districts and county offices of education need
8 to accomplish this purpose.

9 (k) (1) For the 2009–10 fiscal year, the amount of property
10 tax revenues apportioned to each school district, pursuant to Article
11 2 (commencing with Section 96.1) of Chapter 6 of Part 0.5 of
12 Division 1 of the Revenue and Taxation Code, shall be reduced
13 by the total amount of Supplemental Educational Revenue
14 Augmentation Fund moneys the district receives. The amount of
15 property tax revenues that is the product of this reduction shall be
16 deposited in the county Supplemental Revenue Augmentation
17 Fund established pursuant to Section 100.06 of the Revenue and
18 Taxation Code.

19 (2) For the purposes of making the computations required by
20 Section 8 of Article XVI of the California Constitution, the total
21 amount of Supplemental Educational Revenue Augmentation Fund
22 moneys a district receives, regardless of the actual date the funds
23 are received, pursuant to this section from each redevelopment
24 agency shall be deemed to be “allocated local proceeds of taxes,”
25 as defined in subdivisions (g) and (h) of Section 41202, and for
26 purposes of Section 42238 of the Education Code, for the 2009–10
27 fiscal year.

28 (l) For purposes of this section, “K-12 school district” has the
29 same meaning as a school district, as defined in Section 80 of the
30 Education Code.

31 (m) This section shall not be construed to increase any
32 allocations of excess, additional, or remaining funds that would
33 otherwise have been allocated to cities, counties, cities and
34 counties, or special districts pursuant to clause (i) of subparagraph
35 (B) of paragraph (4) of subdivision (d) of Section 97.2 of, clause
36 (i) of subparagraph (B) of paragraph (4) of subdivision (d) of
37 Section 97.3 of, or Article 4 (commencing with Section 98) of
38 Chapter 6 of Part 0.5 of Division 1 of, the Revenue and Taxation
39 Code had this section not been enacted.

1 *SEC. 2. Section 33690.5 of the Health and Safety Code, as*
2 *added by Section 7 of Chapter 21 of the Fourth Extraordinary*
3 *Session of the Statutes of 2009, is amended to read:*

4 33690.5. (a) (1) (A) For the 2010–11 fiscal year a
5 redevelopment agency shall remit, as determined by the Director
6 of Finance, prior to May 10, 2011, an amount equal to the amount
7 determined for that agency pursuant to paragraph (2) to the county
8 auditor for deposit in the county Supplemental Educational
9 Revenue Augmentation Fund.

10 (B) On or before May 25, 2011, the county auditor shall report
11 to the Department of Finance each amount transferred to the
12 Supplemental Educational Revenue Augmentation Fund for the
13 2010–11 fiscal year.

14 (2) On or before November 15, 2010, the Director of Finance
15 shall do all of the following:

16 (A) Determine the net tax increment apportioned to each agency
17 pursuant to Section 33670, excluding any amounts apportioned to
18 affected taxing entities pursuant to Section 33401, 33607.5, or
19 33676.

20 (B) Determine the net tax increment apportioned to all agencies
21 pursuant to Section 33670, excluding any amounts allocated to
22 affected taxing entities pursuant to Section 33401, 33607.5, or
23 33676.

24 (C) Determine a percentage factor by dividing three hundred
25 fifty million dollars (\$350,000,000) by two and then by the amount
26 determined pursuant to subparagraph (B).

27 (D) Determine an amount for each agency by multiplying the
28 amount determined pursuant to subparagraph (A) by the percentage
29 factor determined pursuant to subparagraph (C).

30 (E) Determine the total amount of property tax revenue
31 apportioned to each agency pursuant to Section 33670, including
32 any amounts allocated to affected taxing entities pursuant to
33 Section 33401, 33607.5, or 33676.

34 (F) Determine the total amount of property tax revenue
35 apportioned to all agencies pursuant to Section 33670, including
36 any amounts allocated to affected taxing entities pursuant to
37 Section 33401, 33607.5, or 33676.

38 (G) Determine a percentage factor by dividing three hundred
39 fifty million dollars (\$350,000,000) by two and then by the amount
40 determined pursuant to subparagraph (F).

1 (H) Determine an amount for each agency by multiplying the
2 amount determined pursuant to subparagraph (E) by the percentage
3 factor determined pursuant to subparagraph (G).

4 (I) Add the amount determined pursuant to subparagraph (D)
5 to the amount determined pursuant to subparagraph (H).

6 (J) Notify each agency, each legislative body, and each county
7 auditor of each agency's amount. The county auditor shall deposit
8 these amounts in the county Supplemental Educational Revenue
9 Augmentation Fund pursuant to paragraph (1).

10 (3) The obligation of any agency to make the payments required
11 pursuant to this subdivision shall be subordinate to the lien of any
12 pledge of collateral securing, directly or indirectly, the payment
13 of the principal, or interest on any bonds of the agency including,
14 without limitation, bonds secured by a pledge of taxes allocated
15 to the agency pursuant to Section 33670. Agencies shall factor in
16 the fiscal obligations created by this subdivision when issuing
17 bonded indebtedness.

18 (b) To make the allocation required by this section, an agency
19 may use any funds that are legally available and not legally
20 obligated for other uses, including, but not limited to, reserve funds,
21 proceeds of land sales, proceeds of bonds or other indebtedness,
22 lease revenues, interest, and other earned income.

23 (c) (1) Notwithstanding any other law, to make the full
24 allocation required by this section, an agency may borrow the
25 amount required to be allocated to the Low and Moderate Income
26 Housing Fund, pursuant to Sections 33334.2, 33334.3, and 33334.6,
27 unless, in a given fiscal year, executed contracts exist that would
28 be impaired if the agency reduced the amount allocated to the Low
29 and Moderate Income Housing Fund pursuant to the authority of
30 this subdivision.

31 (2) As a condition of borrowing pursuant to this subdivision,
32 an agency shall make a finding that there are insufficient other
33 moneys to meet the requirements of subdivision (a). Funds
34 borrowed pursuant to this subdivision shall be repaid in full on or
35 before June 30, 2016. An agency that fails to repay funds borrowed
36 pursuant to this subdivision shall be required to allocate an
37 additional 5 percent of all taxes that are allocated to that agency
38 pursuant to Section 33670 for low- and moderate-income housing
39 for the remainder of the time the agency receives tax revenue
40 pursuant to Section 33670.

1 (d) The legislative body shall by March 1, 2011, report to the
2 county auditor as to how the agency intends to fund the allocation
3 required by this section, or that the legislative body intends to remit
4 the amount in lieu of the agency pursuant to Section 33692.

5 (e) The allocation obligations imposed by this section, including
6 amounts owed, if any, created under this section, are hereby
7 declared to be an indebtedness of the redevelopment project to
8 which they relate, payable from taxes allocated to the agency
9 pursuant to Section 33670, and shall constitute an indebtedness of
10 the agency with respect to the redevelopment project until paid in
11 full.

12 (f) It is the intent of the Legislature, in enacting this section,
13 that these allocations directly or indirectly assist in the financing
14 or refinancing, in whole or in part, of the community's
15 redevelopment project pursuant to Section 16 of Article XVI of
16 the California Constitution.

17 (g) In making the determination required by subdivision (a),
18 the Director of Finance shall use those amounts reported in "Table
19 7, Assessed Valuation, Tax Increment Distribution and Statement
20 of Indebtedness" for all agencies and for each agency in the
21 2006–07 edition of the Controller's Community Redevelopment
22 Agencies Annual Report made pursuant to Section 12463.3 of the
23 Government Code, *subject to any adjustments required by*
24 *subdivision (h).*

25 (h) *With respect to the use of amounts reported in the 2006–07*
26 *edition of the Controller's Community Redevelopment Agencies*
27 *Annual Report for purposes of subdivision (a), both of the following*
28 *shall apply:*

29 ~~(h)~~

30 (1) If revised reports were accepted by the Controller on or
31 before September 1, 2008, the Director of Finance shall use
32 appropriate data that has been certified by the Controller for the
33 purpose of making the determinations required by subdivision (a).

34 (2) *The director shall adjust the reported amounts of net and*
35 *total tax increment revenue to exclude amounts apportioned to*
36 *any redevelopment agency from any territory that has been deleted*
37 *from any project area, as reported to the State Board of*
38 *Equalization in accordance with Section 33375 prior to August 1,*
39 *2009, and that deletion is not reflected in the Controller's 2006–07*

1 *published report or in the revised reports described in paragraph*
2 *(1).*

3 (i) Except as provided in Section 33331.5, nothing in this
4 section shall be construed as extending the time limits on the ability
5 of agencies to do both of the following:

6 (1) Establish loans, advances, or indebtedness.

7 (2) Exercise eminent domain powers.

8 (j) (1) Notwithstanding Sections 97.2 and 97.3 of Revenue
9 and Taxation Code, the county auditor-controller shall distribute
10 the funds that are remitted to the county Supplemental Educational
11 Revenue Augmentation Fund by a redevelopment agency pursuant
12 to this section only to a K-12 school district or county office of
13 education that is located partially or entirely within any project
14 area of that redevelopment agency in an amount proportional to
15 the average daily attendance of each school district.

16 (2) The county auditor-controller shall notify each K-12 school
17 district, and the State Department of Education, of the amount of
18 Supplemental Educational Revenue Augmentation Fund moneys
19 a district receives pursuant to this section from each redevelopment
20 agency. The county auditor-controller shall also notify each K-12
21 school district receiving funds pursuant to paragraph (1) of the
22 project area boundaries of each redevelopment agency from which
23 the K-12 school district received funds.

24 (3) (A) The county superintendent of schools shall provide the
25 average daily attendance reported for each school district as of the
26 Second Principal Apportionment for the 2009–10 fiscal year to
27 the county auditor-controller.

28 (B) The county auditor-controller shall, based on information
29 provided by the county superintendent of schools pursuant to
30 subparagraph (A), allocate the funding pursuant to this subdivision
31 to those districts within the county.

32 (4) The county auditor-controller shall notify, on or before May
33 25, 2011, the Department of Finance of the amount of funding
34 apportioned to each district or county office of education pursuant
35 to this subdivision.

36 (5) School districts and county offices of education shall use
37 the funds received under this section to serve pupils living in the
38 redevelopment areas or in housing supported by redevelopment
39 agency funds. Redevelopment agencies shall provide whatever
40 information school districts need to accomplish this purpose.

(k) (1) For the 2010–11 fiscal year, the amount of property tax revenues apportioned to each school district, pursuant to Article 2 (commencing with Section 96.1) of Chapter 6 of Part 0.5 of Division 1 of the Revenue and Taxation Code, shall be reduced by the total amount of Supplemental Educational Revenue Augmentation Fund moneys the district receives. The amount of property tax revenues that is the product of this reduction shall be deposited in the county Supplemental Revenue Augmentation Fund established pursuant to Section 100.06 of the Revenue and Taxation Code.

(2) For the purposes of making the computations required by Section 8 of Article XVI of the California Constitution, the total amount of Supplemental Educational Revenue Augmentation Fund moneys a district receives, regardless of the actual date the funds are received, pursuant to this section from each redevelopment agency shall be deemed to be “allocated local proceeds of taxes,” as defined in subdivisions (g) and (h) of Section 41202 and for purposes of Section 42238 of the Education Code, for the 2010–11 fiscal year.

(l) For purposes of this section, “K-12 school district” has the same meaning as a school district, as defined in Section 80 of the Education Code.

(m) This section shall not be construed to increase any allocations of excess, additional, or remaining funds that would otherwise have been allocated to cities, counties, cities and counties, or special districts pursuant to clause (i) of subparagraph (B) of paragraph (4) of subdivision (d) of Section 97.2 of, clause (i) of subparagraph (B) of paragraph (4) of subdivision (d) of Section 97.3 of, or Article 4 (commencing with Section 98) of Chapter 6 of Part 0.5 of Division 1 of, the Revenue and Taxation Code had this section not been enacted.

SEC. 3. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to make the necessary adjustments to effectively implement the Budget Act of 2009, it is necessary for this act to take effect immediately.

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**All matter omitted in this version of the bill
appears in the bill as amended in the
Assembly, October 26, 2009. (JR11)**

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